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Commission Faces Battle Over Broker's Winding-Up

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A former Bahamian broker/dealer yesterday pledged to fight the Securities Commission's bid to place it in court-supervised liquidation over concerns it asserts are "completely baseless".

Guy Gentile, principal of Mint Broker International, told *Tribune Business* he still wanted "my day in court" to challenge actions by the regulator that had "put us out of business" without due justification and cost up to 70 Bahamian jobs in doing so.

The Securities Commission, though, has already persuaded the Supreme Court to approve Bahamas-based EY (Ernst & Young) associate partner, Igal Wizman, and his Cayman-based counterpart, Eleanor Fisher, as joint provisional liquidators for Mint Broker International (formerly named Swiss America Securities).

Justice Ian Winder's Order, dated March 19, permits the EY duo to take control of all Mint Broker International's assets, property and documents. It has also set May 19, 2020, as the date when Mr Gentile can seek to overturn the Order - and Securities Commission action - at a full hearing on the latter's winding-up petition. Should he fail, what remains of Mint Broker will be placed in court-supervised liquidation.

Documents filed by the Securities Commission in support of the winding-up allege that it was motivated to take this action because Mint Broker is currently "non-operational" and had failed to comply with the requirements set by the regulator for its voluntary dissolution.

As a result, with Mint Broker's registration suspended, the Securities Commission argued that the provisional liquidators' appointment was essential to protecting "the welfare of investors and/or clients".

Christina Rolle, the Securities Commission's executive director, alleged in the winding-up petition that Mr Gentile and Mint Broker had breached the Securities Industry's Act's section 73 through their "unilateral decision to voluntarily wind-up" the broker/dealer that was formerly based at Bay Street's

Elizabeth on Bay plaza.

She argued that the law requires Securities Commission licensees to seek the regulator's approval for doing this, and multiple letters were sent to Mr Gentile and his business warning that "conditions" would be imposed for taking this course of action.

These "conditions" included a complete transaction history involving the brokerage accounts that Mint Broker held with its main clearing house/counterparty; a "full reconciliation" of all client accounts from the period dating from June 1, 2019, to closure; the provision of outstanding audited financial statements for 2017 and 2018; and "a detailed plan" for winding-up operations.

These were supposed to have been submitted by 2019 year-end, but Ms Rolle alleged: "To-date, despite the numerous requests from the Commission, Swiss America (Mint Broker) has failed again to comply with and/or provide all the requested information."

"By its letter dated February 4, 2020, the Commission formally advised Swiss America that by reason of its failure to provide all required information - and Swiss America's current non-operational status - the Commission will immediately suspend and the registration of Swiss America and seek a court-supervised winding-up to ensure the protection of Swiss America's clients, investors and creditors in the winding-up process.

"It is paramount that the Commission protect the welfare of investors and/or clients as well as to maintain the integrity of The Bahamas' securities and investment markets. Therefore, the Securities Commission seeks orders to prevent any further harm to Swiss America's clients."

The battle between Mr Gentile on one side, and Ms Rolle and the Securities Commission on the other, has also become increasingly bitter and personal. The Mint Broker chief, in a December 3, 2019, letter to the regulator made clear his belief that he was unjustly being singled out.

This provoked a withering response from Ms Rolle eight days later, warning that his letter "contains grossly inaccurate and defamatory material - all of which is strongly rejected by the Commission" and had been referred to its attorneys for possible legal action.

"Without prejudice to further points of objection to be forthcoming by the Commission, the Commission categorically rejects your statements attributing to it, its management or its staff any mal-intent, bias or abuse of power in any form or manner against Swiss America and/or its employees and directors," Ms Rolle wrote.

Mr Gentile, though, maintained that theme in an interview with *Tribune Business* yesterday. He said that while Mint Broker had ceased operating, the company had not been dissolved to enable him to take retaliatory legal action against the Securities Commission.

"I'm going to be challenging that," he asserted over the winding-up petition and appointment of provisional liquidators. "Today I still have not had my day in court to fight allegations that are completely baseless. They've been made with no proof whatsoever. That's why I was so easily able to get the original injunction from that Supreme Court."

That mid-September 2019 injunction, obtained by Philip Davis QC, the Opposition leader on Mr Gentile/Mint Broker's behalf, overturned the Securities Commission's five-day suspension of its licence and gave it permission to launch Judicial Review proceedings over the regulator's actions.

Ms Rolle admitted that the injunction, granted by Justice Ruth Bowe-Darville, had "fully disabled" the Securities Commission's probe into Mint Broker's business operations. And Mr Gentile yesterday questioned why, with the injunction still in place, the Securities Commission had now sought to press forward with a winding-up petition before a different Supreme Court judge.

"What's the basis for a liquidation?" he asked. "We didn't go out of business because we were insolvent. We don't have any assets. We don't have any creditors. Mint Broker was closed down five months ago. We wound down the company already, but I kept it open because we believe the

Securities Commission is liable for damages for shutting us down for five days to begin with.

"I intend to see it through for suspending is in the beginning, which was improperly done.... I'm willing to see this through to prove they are liable for destroying the firm. I'm not the bad guy here. I was employing many, many people, and the Securities Commission was trying to use what happened to me in the past to get me out of the business."

That likely refers to Mr Gentile's previous role as a Federal Bureau of Investigations (FBI) informant, in which he allegedly helped it uncover and arrest several share-trading scammers and con artists, plus several legal actions launched against him by the Securities Commission's US counterpart, the Securities & Exchange Commission (SEC).

The Bahamian regulator had previously described Mint Broker's business model as "akin to a Ponzi scheme", with client funds being diverted without their knowledge to an unregistered affiliate in Canada. It also alleged that clients were unaware that so-called "referral" fees were being charged by a UK affiliate.

Mr Gentile, though, said these claims were "the furthest thing from the truth". Asserting that the Bahamian regulator had long known of its business model, and never voiced concerns until last year, he added that the UK affiliate was properly registered in that country with clients clearing through the local company here.

"There were no fees ever being paid, and it's not true that clients did not know about it because they opened accounts through the UK firm. Of course they knew about it," Mr Gentile asserted. He also denied Ms Rolle's assertions that client monies were to be moved to Mint Broker's operational account with Deltec Bank & Trust, saying this never happened.

Mr Gentile also asserted that it was "impossible to trade in a Ponzi scheme manner", adding that the Securities Commission's five-day suspension had threatened to undermine confidence in Mint Broker because its clients were day traders who needed constant access to their positions.

"The bottom line here is that 70 people have lost their jobs," Mr Gentile argued. "I still have my New York firm, in business since 1999, doing the same business that Mint Broker/Sure Trader does. If it was illegal I'm sure the SEC would have shut me down."

"I really, really love The Bahamas. There's a reason I chose The Bahamas. I love the people, the economy. That's why I was there. I spent \$2m putting Sushi Bar restaurant there. It was there for three years. It was a bad traffic area, but still employed 70 people. I own property there, and spent money there."

"I was paying \$2m a year in salaries, and \$2m between audits and Commission fees. I gave between \$200,000 to \$300,000 to charities. I would love to bring my company back there with 100 jobs that are COVID-19 ready," he continued.

"Our firm was a thousand times' over-capitalised. It's crazy that the Commission alleges customers were being defrauded without there being any customer complaints. It's sad, and I feel bad for everyone working at Sure Trader. They lost their job, had a good working environment, were smart-skilled people and are now out of a job."

"Now they have a talent they can't use and I feel bad for them because The Bahamas is going to see a lot of lay-offs. People are not going to jump on a cruise ship, jump on a flight to come to The Bahamas tomorrow."

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LOL, first he says that it will cost 70 jobs to liquidate his firm. Later he says that it is 100 jobs. It's good to see the regulators using some teeth. This should have been happening years ago.

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Talks out of both sides of his mouth,!

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